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6 Attorneys for Defendant
Resurgent Capital Services, L.P.

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 MARIA HERNANDEZ, an Individual

12 Plaintiff,

13 vs.

14 RESURGENT CAPITAL SERVICES,
L.P., is a business entity, form unknown;
15 and DOES 1-25, Inclusive,

16 Defendants.
17

Case No.: **CV14-1170 PLA**
[Removal from the Superior Court of
California for the County of Los
Angeles, Case No. BC532565]

**DEFENDANT RESURGENT
CAPITAL SERVICES, L.P.'S
NOTICE OF REMOVAL
PURSUANT TO 28 U.S.C. §§ 1331,
1441(c), AND 1446**

[FEDERAL QUESTION]

COPY

BY: _____

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

2014 FEB 14 PM 12:11

FILED

YU | MOHANDESI LLP
633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

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633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR**
 2 **THE CENTRAL DISTRICT OF CALIFORNIA:**

3 **PLEASE TAKE NOTICE** that Defendant Resurgent Capital Services, L.P.
 4 (“Defendant”) hereby removes the action described below from the Superior Court of
 5 California for the County of Los Angeles, to the United States District Court for the
 6 Central District of California, Western Division, pursuant to Sections 1331, 1441(c),
 7 and 1446 of Title 28 of the United States Code (“U.S.C.”). As set forth more fully
 8 below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441
 9 because Defendant has satisfied the procedural requirements for removal and this
 10 Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331. In
 11 support of this Notice of Removal, Defendant states as follows:

12 **I. THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT**
 13 **TO 28 U.S.C. SECTIONS 1331 AND 1441**

14 On or about January 8, 2014, plaintiff Maria Hernandez (“Plaintiff”) filed a
 15 Complaint in the Superior Court of California for the County of Los Angeles
 16 (“Superior Court”), entitled *Maria Hernandez v. Resurgent Capital Services, L.P.*,
 17 Case No. BC532565. In the Complaint, Plaintiff alleges that Defendant attempted to
 18 collect a debt Plaintiff did not owe despite having notice that Plaintiff is a victim of
 19 identity theft. Complaint, ¶¶ 10-12. Based on the these allegations, Plaintiff asserts
 20 three causes of action against Defendant: (1) violation of the California Identity Theft
 21 Law, Cal. Civ. Code 1798.92, (2) violation of the Rosenthal Fair Debt Collection
 22 Practices Act (“RFDCPA”), Cal. Civ. Code §1788 *et seq.* and (3) violation of the Fair
 23 Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.* The Summons,
 24 Complaint and Civil Case Cover Sheet are attached hereto as **Exhibit A**, as required
 25 by 28 U.S.C. § 1446(a).

26 Because this action arises under federal law (the FDCPA), which can be
 27 ascertained from the face of Plaintiff’s Complaint, this Court has original jurisdiction
 28 pursuant to 28 U.S.C. § 1331. Further, this Court has supplemental jurisdiction over

1 Plaintiff's state law claims (the California Identity Theft Law and the RFDCPA),
2 which form part of the "same case or controversy" pursuant to 28 U.S.C. § 1367(a).
3 Specifically, like Plaintiff's FDCPA claim, Plaintiff's California Identity Theft Law
4 claim and RFDCPA claim also allege that Defendant improperly engaged in collection
5 activity against Plaintiff, an identity theft victim. Accordingly, this action may be
6 removed to this Court pursuant to 28 U.S.C. § 1441.

7 **II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE**
8 **SATISFIED**

9 On or about January 8, 2014, Plaintiff filed this action in the Superior Court of
10 California for the County of Los Angeles. Defendant was served with the Complaint
11 on January 15, 2014. This Notice of Removal is timely in that it was filed within 30
12 days from the time Defendant had notice that the action was removable, and less than
13 a year after the commencement of the action. *See* 28 U.S.C. § 1446(b). Defendant's
14 Answer - previously filed in the Superior Court - is attached hereto as **Exhibit B**.

15 The Superior Court of California for the County of Los Angeles is located
16 within the United States District Court for the Central District of California, Western
17 Division. *See* 28 U.S.C. § 84(c)(2). Thus, venue is proper in this Court because it is
18 the "district and division embracing the place where such action is pending." 28
19 U.S.C. § 1441(a).

20 In compliance with 28 U.S.C. § 1446(d), Defendant will serve on Plaintiff and
21 file with the Clerk of the Superior Court a written notice of the filing of this Notice of
22 Removal, attaching a copy of this Notice of Removal.

23 No previous application has been made for the relief requested herein.

24 ///

1 WHEREFORE, Defendant respectfully removes this action from the Superior
2 Court of California for the County of Los Angeles to this Court pursuant to 28 U.S.C.
3 §§ 1331, 1441 and 1446.

4 DATED: February 14, 2014.

5 YU | MOHANDESI LLP

6
7 By _____

8 Jordan S. Yu
9 B. Ben Mohandesi
10 Attorneys for Defendant
11 Resurgent Capital Services, L.P.
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YU | MOHANDESI LLP
633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

EXHIBIT A

A6000
91605

Robert F. Brennan, Esq. [S.B. #132449]
LAW OFFICES OF ROBERT F. BRENNAN, A P.C.
 3150 Montrose Ave.
 La Crescenta, Ca. 91214

[818] 249-5291
 FAX [818] 249-4329
 Email: rbrennan@brennanlaw.com

Attorney for Plaintiff: Maria Hernandez

FILED
 Superior Court Of California
 County Of Los Angeles

DEPT. 16

RITA MILLER

JAN 08 2014

Sherri R. Carter, Executive Officer/Clerk
 By Judi Lara Deputy

**SUPERIOR COURT OF THE STATE OF
 CALIFORNIA COUNTY OF LOS ANGELES**

MARIA HERNANDEZ, an Individual;

Plaintiff,

vs.

RESURGENT CAPITAL SERVICES
 L.P., is a business entity, form
 unknown; and DOES 1-25, Inclusive,
 Defendants.

Case No.:

BC532565

COMPLAINT FOR DAMAGES:

1. CALIFORNIA IDENTITY THEFT LAW.
2. ROSENTHAL DEBT COLLECTION PRACTICES ACT.
3. FEDERAL FAIR DEBT COLLECTION PRACTICES ACT

JURY TRIAL DEMANDED.

Plaintiff alleges:

1. Plaintiff MARIA HERNANDEZ ("Plaintiff") is a resident of County of Los Angeles, State of California.

2. Defendants RESURGENT CAPITAL SERVICES L.P. ("RESURGENT") is a collection agency, which, among other activities, reports allegedly delinquent debts to credit bureaus and is a "furnisher" under the Fair Credit Reporting Act.

COMPLAINT FOR DAMAGES

RECEIPT #: 0520872127
 DATE PAID: 01/08/14 04:20 PM
 PAYMENT: \$15.00
 RECEIVED:
 CHECK \$435.00
 CASH: \$0.00
 CHARGE: \$0.00
 CARD: \$0.00

CIT/CASE: BC532565
 LEA/DEF#:

01/08/14 01:01:4

1 3. Defendants DOES 1-25 are individuals and business entities, form
2 unknown, doing business in the State of California as credit reporting agencies,
3 debt collection agencies, creditors or other persons or entities which engage in
4 credit reporting and/or debt collection. DOES 1-25, Inclusive, includes
5 individuals or business entities doing business in the State of California as credit
6 reporting agencies, debt collectors and/or creditors who have refused to delete
7 accounts of plaintiff that were procured through identity theft, mixed file or other
8 manner of recording an inaccurate credit account, even after plaintiff has notified
9 them of the false or inaccurate derogatory, and also who have reported such
10 accounts as derogatory credit references to credit reporting agencies.

11 4. Plaintiff does not know the true names and capacities, whether corporate,
12 partnership, associate, individual or otherwise of Defendants sued herein as Does
13 1 through 25, inclusive, under the provisions of Section 474 of the California
14 Code of Civil Procedure. Plaintiff is informed and believes and on that basis
15 alleges that Defendants Does 1 through 25, inclusive, are in some manner
16 responsible for the acts, occurrences and transactions as officers, directors or
17 managing agents of Defendants or as its agents, servants, employees and/or joint
18 venturers and as set forth in this complaint, and that each of them are legally liable
19 to Plaintiff, as set forth below and herein:

20 a) Said Officers, directors or managing agents of Defendants personally
21 acted willfully with respect to the matters alleged in this complaint;

22 b) Said officers, directors or managing agents of Defendants personally
23 authorized, approved of, adopted and/or ratified the acts alleged herein or the
24 agents, servants, employees and/or joint venturers of Defendants did so act;

25 c) Said officers, directors or managing agents of Defendants personally
26 participated in the acts alleged herein of Defendants;

1 d) Said Officers, directors or managing agents of Defendants personally had
2 close supervision of their agents, servants, employees and/or joint venturers of
3 Defendants;

4 e) Said Officers, directors or managing agents of Defendants personally
5 were familiar with the facts regarding the matters alleged herein;

6 f) Said Officers, directors or managing agents of Defendants personally
7 failed to investigate the circumstances appertaining to the acts alleged herein.
8 They also failed and refused to repudiate the herein alleged actions and failed to
9 redress the harm done to Plaintiffs. Further, said Officers, directors, or managing
10 agents of Defendants failed and refused to punish or discharge the said agents,
11 servants, employees and/or joint venturers of Defendants, even after learning of
12 the acts of the agents, servants, employees and/or joint venturers of Defendants.
13 Plaintiffs will seek leave to amend this complaint to set forth the true names and
14 capacities of said fictitiously named Defendants as enumerated above, together
15 with appropriate charging allegations, when learned.

16 5. Plaintiff is informed and believes, and thereon allege that at all relevant
17 times herein each Defendant, whether actually or fictitiously named, was the
18 principal, joint venturer, agent, servant or employee of each other Defendant, and
19 in acting as such within the course, scope and authority of such relationship, took
20 some part in the acts and omissions hereinafter set forth, by reason of which each
21 Defendant is liable to Plaintiff for the relief prayed for in this complaint, and any
22 future amended complaint. Further, Plaintiff alleges that each act alleged herein,
23 whether by a named Defendants or fictitiously named Defendants or otherwise,
24 was expressly authorized or ratified, as these terms are used in California Civil
25 Code Section 3294(b), by each and every other Defendant herein, whether named
26 or fictitiously named.

FIRST CAUSE OF ACTION

VIOLATION OF CALIFORNIA IDENTITY THEFT

LAW, CIV. CODE SECTION 1798.92 et seq.,

AGAINST RESURGENT AND DOES 1-25, INCLUSIVE.

6. Plaintiff incorporates all preceding paragraphs as though alleged in full in this cause of action.

7. On or about January 2008, Plaintiff discovered that someone unknown to her used her identity to purchase a home in Palmdale, California, prompting her to file a police report for identity theft. However, at the time she had no knowledge that RESURGENT and DOES 1-25, Inclusive, would become "claimants" against her in the identity theft scheme. RESURGENT'S involvement did not occur for several more years.

8. On or about October 2013, Plaintiff received a monthly statement from Defendant Resurgent requesting a monthly payment of \$512.98 on loan number 0261808589. The principal balance as of October 1, 2013 was \$51,749.84.

9. On or about November 2013, Plaintiff received a monthly statement from Defendant Resurgent requesting a monthly payment of \$512.98 on loan number 0261808589.

10. On or about November 20, 2013, Plaintiff sent correspondence to RESURGENT advising that she was a victim of identity theft and to deny any connection or responsibility for loan # 0261808589. Plaintiff has submitted a copy of her police report, her Social Security Card, utility bill and California identification to assist in the research process.

11. On or about December 2013, Plaintiff received a monthly statement from Defendant Resurgent requesting a monthly payment of \$512.98 on loan number 0261808589.

12. In continuing debt collection activities and in continuing to claim

1 against Plaintiff after she had reported to them the identity theft situation and after
2 providing them with a police report, RESURGENT and DOES 1-25, Inclusive,
3 willfully violated the California Identity Theft Law, Civ. Code Section 1798.92 et
4 seq.

5 13. Plaintiff has suffered actual damages, including general, special,
6 incidental and consequential damages, and is also entitled to attorney's fees and
7 costs under the California Identity Theft Law. In addition, Plaintiff alleges that
8 defendants RESURGENT and DOES 1-25, Inclusive, specifically violated Civ.
9 Code Section 1798.93 (c) (6), thereby entitling her to a \$30,000.00 penalty, in
10 addition to any other damages which may be assessed.

11 **SECOND CAUSE OF ACTION**

12 **VIOLATION OF CALIFORNIA ROSENTHAL ACT** 13 **AGAINST RESURGENT AND DOES 1-25, INCLUSIVE.**

14 14. Plaintiff incorporates all preceding paragraphs as though alleged in full
15 in this cause of action.

16 15. In continuing debt collection activities after the point where Plaintiff
17 notified defendants of the identity theft situation, and after she provided them with
18 a police report of the identity theft, defendants RESURGENT and DOES 1-25,
19 Inclusive, willfully and knowingly violated the California Rosenthal Act, and
20 specifically violated Civ. Code Section 1788.18.

21 16. Plaintiff has suffered actual damages, including general, special,
22 incidental and consequential damages, and is also entitled to attorney's fees and
23 costs under the Rosenthal Act. In addition, Plaintiff alleges that defendants
24 RESURGENT and DOES 1-25, Inclusive, specifically violated Civ. Code Section
25 1788.18 and 15 USC Section 1691e (8), thereby entitling her to a statutory
26 penalty, in addition to any other damages which may be assessed.
27
28

THIRD CAUSE OF ACTION

**[VIOLATION OF FEDERAL FDCPA AGAINST RESURGENT
AND DOES 1-25, INCLUSIVE]**

17. Plaintiff incorporates all preceding paragraphs as though alleged in full in this cause of action.

18. Defendants RESURGENT and DOES 1-25, Inclusive, are “debt collectors” as this term is defined in 15 U.S.C. Section 1692a.

19. Defendants RESURGENT and DOES 1-25, Inclusive, have violated the federal Fair Debt Collection Practices Act in at least the following ways:

- i. 15 U.S.C. Section 1692e (2): false representations about the character, amount or legal status of the debt;
- ii. 15 U.S.C. Section 1692e (5): threats to take legal action that could not be taken; and,
- iii. 15 U.S.C. Section 1692f (1): the collection of any amount not permitted by law to be collected.

20. Plaintiff reserves the right to amend the complaint to allege additional violations of the federal FDCPA as these become, or may become, known.

21. As a result of the violations of the federal FDCPA by defendants RESURGENT and DOES 1-25, Inclusive, Plaintiff has suffered actual, general, special, incidental and consequential damages according to proof. In addition, Plaintiff also seeks such statutory penalties and other relief as is available based upon the facts presented at trial. Plaintiff is also entitled to his attorney’s fees and costs under federal FDCPA.

WHEREFORE, Plaintiff prays for judgment as follows:

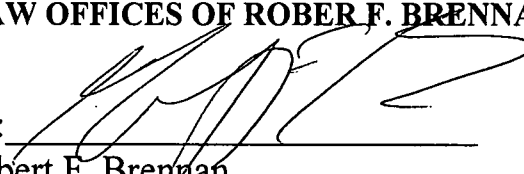
1. For general and special damages according to proof at trial;

2. For statutory penalties for each separate statutory violation where allowed by statute;
3. For punitive damages against defendants according to proof at trial and using the applicable punitive damages standards from the involved statutes;
4. For attorney's fees where authorized by statute or law;
5. For costs of suit;
6. For such other relief as the court deems just and proper.

PLAINTIFF DEMANDS A JURY TRIAL.

Dated: January 7 2014

LAW OFFICES OF ROBERT F. BRENNAN, A P.C.

By: 
Robert F. Brennan
Attorney for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Robert F. Brennan SBN 132449 LAW OFFICES OF ROBERT F. BRENNAN A.P.C. 3150 Montrose Ave. La Crescenta CA 91214 TELEPHONE NO.: 818-249-5291 FAX NO.: 818-249-4329 ATTORNEY FOR (Name): Plaintiff Maria Hernandez		FOR COURT USE ONLY <div style="border: 1px solid black; padding: 5px; display: inline-block;"> FILED Superior Court Of California County Of Los Angeles </div> <div style="font-size: 1.2em; margin-top: 10px;">JAN 08 2014</div> Sherri R. Carter, Executive Officer/Clerk By <u>Judi Lara</u> , Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: same as above CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central District		CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold; text-align: center;">BC 532565</div> JUDGE: DEPT:
CASE NAME: Hernandez v. Resurgent Capital Services L.P.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **3**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-045.)

Date: January 8, 2014

Robert F. Brennan

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease
 - Contract (*not unlawful detainer or wrongful eviction*)
 - Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
- Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (*non-domestic relations*)
 - Sister State Judgment
 - Administrative Agency Award (*not unpaid taxes*)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
- Declaratory Relief Only
- Injunctive Relief Only (*non-harassment*)
- Mechanics Lien
- Other Commercial Complaint Case (*non-tort/non-complex*)
- Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
- Other Civil Petition

BC 532565

SHORT TITLE:

Hernandez v. Resurgent Capital Services LP

CASE NUMBER

FOR COURT USE ONLY

FILED
Superior Court Of California
County Of Los Angeles

JAN 08 2014

Sherri R. Carter, Executive Officer/Clerk
By Judi Lara, Deputy

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO
COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL⁴⁻⁵ ☐ HOURS/ ☒ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

1. Class Actions must be filed in the Stanley Mosk Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Injury/Property Damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 2., 3. 1., 2., 4.

SHORT TITLE:

Hernandez v. Resurgent Capital Services LP

CASE NUMBER

Non-Personal Injury/ Property
Damage/ Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: Hernandez v. Resurgent Capital Services LP	CASE NUMBER:
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above	
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.	
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.	
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.	
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.	
	Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)		<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.	
Claims Involving Mass Tort (40)		<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.	
Securities Litigation (28)		<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.	
Toxic Tort Environmental (30)		<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.	
Insurance Coverage Claims from Complex Case (41)		<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.	
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.	
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.	
	Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input checked="" type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
		Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
		Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition

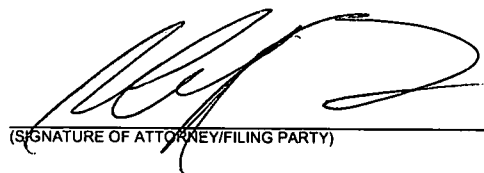
SHORT TITLE: Hernandez v. Resurgent Capital Services LP	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 7725 Laurel Canyon Blvd.	
CITY: North Hollywood	STATE: CA	ZIP CODE: 91605	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Los Angeles courthouse in the Central District of the Los Angeles Superior Court [Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)].

Dated: January 8, 2014


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LASC Approved CIV 109 (Rev. 01/07).
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

EXHIBIT B

COPY

1 **YU | MOHANDESI LLP**

2 B. Ben Mohandesi (SBN 214921)
213.377.5505 | bmohandesi@yumollp.com
3 Jordan Yu (SBN 227341)
213.377.5502 | jyu@yumollp.com
4 633 West Fifth Street, Suite 2800
Los Angeles, CA 90071
5 213.377.5501 Facsimile

6 Attorneys for Defendant
Resurgent Capital Services, L.P.
7

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

FEB 13 2014

Sherri R. Carter, Executive Officer/Clerk
By Cristina Grijalva, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

11 MARIA HERNANDEZ, an Individual,

12 Plaintiff,

13 vs.

14 RESURGENT CAPITAL SERVICES, L.P. is a
business entity, form unknown; and DOES 1-25,
15 Inclusive,

16 Defendants.
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Case No. BC532565

**DEFENDANT RESURGENT CAPITAL
SERVICES, L.P.'S ANSWER TO
PLAINTIFF'S COMPLAINT; DEMAND
FOR JURY TRIAL**

YU | MOHANDESI LLP
633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

Defendant Resurgent Capital Services, L.P. (“Defendant”) hereby answers Plaintiff Maria Hernandez’s (“Plaintiff”) Complaint as follows:

GENERAL DENIAL

Pursuant to California Code of Civil Procedure Section 431.30, Defendant denies each and every allegation contained in the Complaint. Defendant further denies that Plaintiff is entitled to any relief against Defendant. In addition, Defendant denies that Plaintiff has sustained any injury, damage, or loss by reason of any conduct, action, error or omission on the part of Defendant, or any agent, employee or any other person acting under Defendant’s authority or control.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. Plaintiff fails to state a claim upon which relief can be granted against Defendant.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiff is barred from obtaining the relief sought in the Complaint by the doctrines of estoppel, waiver, unclean hands and laches.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiff’s claims are barred in whole or in part because Plaintiff has failed to mitigate her alleged damages, if any.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff’s claims are barred in whole or in part because Plaintiff consented to, ratified, or acquiesced in all of the alleged acts or omissions.

FIFTH AFFIRMATIVE DEFENSE

5. Defendant’s conduct was privileged and/or justified.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiff has waived any and all claims, rights and demands made in the Complaint.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff’s claims may be barred because any alleged acts or omissions of Defendant giving rise to Plaintiff’s claims, if any, were the result of an innocent mistake and/or bona fide error notwithstanding reasonable procedures implemented by Defendant to avoid any such acts or

omissions.

EIGHTH AFFIRMATIVE DEFENSE

8. Plaintiff's claims may be barred because Defendant, within 15 days of either after discovering a violation which is able to be cured, or after the receipt of a written notice of such violation, made adjustments or corrections necessary to cure the violation with respect to Plaintiff.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff's claims are barred by the statute of limitations, including but not limited to California Civil Code sections 1798.96, 1788.30 and 15 U.S.C. § 1692k.

TENTH AFFIRMATIVE DEFENSE

10. Defendant specifically denies that it acted with any willfulness, oppression, fraud or malice towards Plaintiff.

ELEVENTH AFFIRMATIVE DEFENSE

11. Any harm alleged in the Complaint can be attributed to several causes, and the damages for this harm, if any, should be apportioned among the various causes according to the contribution of each cause to the harm sustained.

TWELFTH AFFIRMATIVE DEFENSE

12. If Plaintiff suffered or sustained any loss, injury, damage or detriment, it was directly and proximately caused and contributed to by the breach, conduct, acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional misconduct of others, and not by Defendant.

THIRTEENTH AFFIRMATIVE DEFENSE

13. If Plaintiff suffered or sustained any loss, injury, damage or detriment, it was directly and proximately caused and contributed to by the intervening acts of others, and not by Defendant.

FOURTEENTH AFFIRMATIVE DEFENSE

14. If Plaintiff prevails against Defendant, Defendant's liability is several and limited to its own actionable segment of fault, if any.

FIFTEENTH AFFIRMATIVE DEFENSE

15. Defendant specifically gives notice that it intends to rely upon such other defenses as

1 may become available by law, or pursuant to statute, or during any further discovery proceedings of
2 this case, and hereby reserves the right to amend its Answer and assert such defenses.

3
4 WHEREFORE, Defendant prays for judgment as follows:

- 5 1. That Plaintiff takes nothing by reason of the Complaint;
6 2. For its costs of suit herein;
7 3. For attorney's fees according to proof to the extent available by law or
8 contract; and
9 4. For such other and further relief as this Court may deem just and proper.

10 DATED: February 13, 2014.

11 YU | MOHANDESI LLP

12
13 By _____

14 Jordan S. Yu
15 B. Ben Mohandesi
16 Attorneys for Defendant
17 Resurgent Capital Services, L.P.
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YU | MOHANDESI LLP
633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

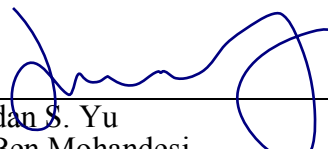
DEMAND FOR JURY TRIAL

Defendant demands a trial by jury in this action.

DATED: February 13, 2014.

YU | MOHANDESI LLP

By


Jordan S. Yu
B. Ben Mohandesi
Attorneys for Defendant
Resurgent Capital Services, L.P.

YU | MOHANDESI LLP
633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Yu | Mohandesi LLP, 633 West Fifth Street, Suite 2800, Los Angeles, CA 90071. On February 13, 2014, I served the following document(s) by the method indicated below:

DEFENDANT RESURGENT CAPITAL SERVICES, L.P.'S ANSWER TO PLAINTIFF'S COMPLAINT; DEMAND FOR JURY TRIAL

	by transmitting via facsimile on this date the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 p.m. and was reported complete and without error. Service by fax was ordered by the Court. The transmitting fax machine complies with Cal.R.Ct 2003(3).
X	by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.
	by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below.
	by having the document(s) listed above hand-delivered to the person(s) at the address(es) set forth below.
	by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business to the address(es) set forth below.
	by emailing the document(s) listed above to the person(s) at the address(es) set forth below.

Robert F. Brennan, Esq.
LAW OFFICES OF ROBERT F. BRENNAN, A.P.C.
3150 Montrose Ave.
La Crescenta, CA 91214

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 13, 2014, at Los Angeles County, California.



Jordan Yu